

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

KALVIN EVANS

PLAINTIFF

v.

CIVIL ACTION NO. 3:19-cv-157-DCB-JCG

ROGER'S TRUCKING, INC. and
TAMMY NADY

DEFENDANTS

Order

This matter is before the Court on Defendants Roger's Trucking, Inc. ("Roger's Trucking") and Tammy Nady ("Nady")'s Motion for Partial Summary Judgment on Plaintiff's Medical Damages Claims from Dr. Dinesh Goel and/or the Medical Clinic of Mississippi. [ECF No. 60]. On November 12, 2019 Magistrate Judge John C. Garguilo granted Defendants' Motion to Join a Non-Party, ordering Calvin Evans ("Evans") to add Dinesh Goel, M.D. and Medical Clinic of Mississippi (collectively, "The Clinic") as parties. [ECF No. 67]. This decision was premised on an agreement ("The First Assignment") executed between the Plaintiff and The Clinic in which Evans assigned a portion of his suit to The Clinic. [ECF No. 57-1].

Defendants filed a Motion for Reconsideration of the Order to join non-parties. [ECF No. 69]. Defendants also filed an assignment ("The Second Assignment") of claims in which The Clinic assigned to Evans all of its rights, claims, title, and interest in and to The Clinic's charges for medical treatment to Evans arising from:

"his 2018 motor vehicle accident and claim for personal injury and any claims or causes of action that Calvin Evans has asserted, is asserting, or will assert in the cause of action in the United States District Court for the Southern District of Mississippi, Northern division styles Kalvin Evans v. Roger's Trucking, Inc. and Tammy Nady."

[ECF No 68-1]. Magistrate Judge Garguilo found that, "[b]y executing the new assignment, the Clinic and Dr. Goel have relinquished ownership interest in Plaintiff's right to payment of the Clinic's and Dr. Goel's charges for Plaintiff's medical treatment arising from Plaintiff's 2018 motor vehicle accident."

[ECF No. 94]. Accordingly, Magistrate Judge Garguilo granted the Motion to Reconsider and held that the Plaintiff is not required to add the Clinic and Dr. Goel as parties. Federal Rule 72 of the Federal Rules of Civil procedure provides Defendants fourteen days to object to a Magistrate Judge's non-dispositive pretrial order. The defendants have filed no such objection to Magistrate Judge Garguilo's Order [94], so the issue is ripe for the Court's review.

Motion for Partial Summary Judgment

Prior to the Second Assignment and the Motion for Reconsideration, the Defendants moved for partial summary judgment regarding Evans' claims for damages for medical treatment by Dr. Goel and/or the Medical Clinic of Mississippi. Defendants assert that they are entitled to partial summary judgment because: (1) "free medical treatment such as Dr. Goel's does not qualify as 'actual damages' as the bills were never meant to be paid;" and

(2) "partial summary judgment is proper to the claims assigned to Dr. Goel because the Plaintiff is no longer a real party in interest to chose claims." [ECF No. 60] at 3, 6.

Magistrate Judge Garguilo found that the Second Assignment made Evans the real party in interest to the claims. Inasmuch as The Clinic and Dr. Goel no longer have a direct interest in this suit, the Defendants' claims regarding the impact of the First Assignment appear to be moot. The Court will grant the defendants an opportunity to convince the Court otherwise and defendants have twenty (20) days from the date of this Order to respond.

Accordingly,

It is hereby ORDERED that the Defendants have twenty (20) days to submit additional briefing addressing the issue of mootness.

SO ORDERED this the 13th day of May, 2020.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE